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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,767	11/30/2001	Carol Ivash Gabele	AUS920000861US1	9639

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EXAMINER

BONURA, TIMOTHY M

ART UNIT

PAPER NUMBER

2114

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/997,767

Applicant(s)

GABELE ET AL.

Examiner

Tim Bonura

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2001.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-4, 9-12 and 17-20 is/are rejected.  
7) ☒ Claim(s) 5-8, 13-16 and 21-24 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 30 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/30/2001.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 9-12, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chirashnya, et al, U.S. Patent Number 6,560,720 and further in view of Dawson, U.S. Patent Number 6,360,335.

4. Regarding claim 1:

a. Regarding the limitation of "receiving fail event packets from said simulation clients, wherein said fail event packets contains an aggregate of detected occurrences of a specified fail event," Chirashnya discloses a system that observes operation of a system following the injection of data to evaluate system response to error conditions. (Lines 48-50 of Column 3).

b. Regarding the limitation of "monitoring the rate of occurrence of said specified fail event from received fail event packets to detect an excess rate of occurrence of said

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specified fail event,” Chirashnya discloses a system with the ability to monitor and report error conditions to a primary node based on simulation to a switch or node of the network. (Lines 29-35 of Column 3). Chirashnya does not disclose a system that can monitor the rate of occurrence of a failed event. Dawson discloses a system that can count the number of lost messages in a network system due to network failure and form a loss metric for that particular failure. (Lines 40-42 of Column 3). It would have been obvious for one of ordinary skill in the art at the time of the invention to combine the monitor and report error conditions of Chirashnya and the fault counting of Dawson. One of ordinary skill in the art at the time would have been motivated because the count of Dawson teaches of what type of error condition is present in the computer system. (Lines 42-53 of Column 3). The counting of Dawson would fill the need of the system of Chirashnya of reporting the error conditions of a node or switch. (Lines 58-60 of Column 4).

5. Regarding claim 2:

c. Regarding the limitation of “maintaining a counter that specifies the rate of occurrences of said specified fail event,” Dawson discloses a system with counter of the number of lost messages. (Lines 17-23 of Column 4).

d. Regarding the limitation of “reading said received aggregate fail event packet,” Chirashnya discloses a system wherein a corrected packet is detected. (Lines 55-58 of Column 3).

e. Regarding the limitation of “responsive to said aggregate fail event packet including a recorded occurrence of said specified fail event, incrementing said counter,”

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Dawson discloses a system with counter of the number of lost messages. (Lines 17-23 of Column 4).

6. Regarding claim 3, Dawson discloses a system wherein a time interval passes and a count value of an error is calculated. (Lines 23-28 of Column 4).

7. Regarding claim 4:

f. Regarding the limitation of “comparing the rate of occurrence of said specified fail event with a predetermined threshold rate adding said specified fail event to a fail event disable list,” Dawson discloses a system the loss metrics of a fault can be analyzed and faults within the network can be isolated. (Lines 59-62 of Column 3).

g. Regarding the limitation of “responsive to the rate of occurrence of said specified fail event exceeding said predetermined threshold rate, adding said specified fail event to a fail event disable list,” Dawson discloses a system the loss metrics of a fault can be analyzed and faults within the network can be isolated. (Lines 59-62 of Column 3).

8. Regarding claim 9:

h. Regarding the limitation of “receiving fail event packets from said simulation clients, wherein said fail event packets contains an aggregate of detected occurrences of a specified fail event,” Chirashnya discloses a system that observes operation of a system following the injection of data to evaluate system response to error conditions. (Lines 48-50 of Column 3).

i. Regarding the limitation of “monitoring the rate of occurrence of said specified fail event from received fail event packets to detect an excess rate of occurrence of said specified fail event,” Chirashnya discloses a system with the ability to monitor and report

error conditions to a primary node based on simulation to a switch or node of the network. (Lines 29-35 of Column 3). Chirashnya does not disclose a system that can monitor the rate of occurrence of a failed event. Dawson discloses a system that can count the number of lost messages in a network system due to network failure and form a loss metric for that particular failure. (Lines 40-42 of Column 3). It would have been obvious for one of ordinary skill in the art at the time of the invention to combine the monitor and report error conditions of Chirashnya and the fault counting of Dawson. One of ordinary skill in the art at the time would have been motivated because the count of Dawson teaches of what type of error condition is present in the computer system. (Lines 42-53 of Column 3). The counting of Dawson would fill the need of the system of Chirashnya of reporting the error conditions of a node or switch. (Lines 58-60 of Column 4).

9. Regarding claim 10:

j. Regarding the limitation of “maintaining a counter that specifies the rate of occurrences of said specified fail event,” Dawson discloses a system with counter of the number of lost messages. (Lines 17-23 of Column 4).

k. Regarding the limitation of “reading said received aggregate fail event packet,” Chirashnya discloses a system wherein a corrected packet is detected. (Lines 55-58 of Column 3).

l. Regarding the limitation of “responsive to said aggregate fail event packet including a recorded occurrence of said specified fail event, incrementing said counter,”

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Dawson discloses a system with counter of the number of lost messages. (Lines 17-23 of Column 4).

10. Regarding claim 11, Dawson discloses a system wherein a time interval passes and a count value of an error is calculated. (Lines 23-28 of Column 4).

11. Regarding claim 12:

m. Regarding the limitation of “comparing the rate of occurrence of said specified fail event with a predetermined threshold rate adding said specified fail event to a fail event disable list,” Dawson discloses a system the loss metrics of a fault can be analyzed and faults within the network can be isolated. (Lines 59-62 of Column 3).

12. Regarding the limitation of “responsive to the rate of occurrence of said specified fail event exceeding said predetermined threshold rate, adding said specified fail event to a fail event disable list,” Dawson discloses a system the loss metrics of a fault can be analyzed and faults within the network can be isolated. (Lines 59-62 of Column 3).

13. Regarding claim 17:

n. Regarding the limitation of “receiving fail event packets from said simulation clients, wherein said fail event packets contains an aggregate of detected occurrences of a specified fail event,” Chirashnya discloses a system that observes operation of a system following the injection of data to evaluate system response to error conditions. (Lines 48-50 of Column 3).

o. Regarding the limitation of “monitoring the rate of occurrence of said specified fail event from received fail event packets to detect an excess rate of occurrence of said specified fail event,” Chirashnya discloses a system with the ability to monitor and report

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error conditions to a primary node based on simulation to a switch or node of the network. (Lines 29-35 of Column 3). Chirashnya does not disclose a system that can monitor the rate of occurrence of a failed event. Dawson discloses a system that can count the number of lost messages in a network system due to network failure and form a loss metric for that particular failure. (Lines 40-42 of Column 3). It would have been obvious for one of ordinary skill in the art at the time of the invention to combine the monitor and report error conditions of Chirashnya and the fault counting of Dawson. One of ordinary skill in the art at the time would have been motivated because the count of Dawson teaches of what type of error condition is present in the computer system. (Lines 42-53 of Column 3). The counting of Dawson would fill the need of the system of Chirashnya of reporting the error conditions of a node or switch. (Lines 58-60 of Column 4).

14. Regarding claim 18:

p. Regarding the limitation of “maintaining a counter that specifies the rate of occurrences of said specified fail event,” Dawson discloses a system with counter of the number of lost messages. (Lines 17-23 of Column 4).

q. Regarding the limitation of “reading said received aggregate fail event packet,” Chirashnya discloses a system wherein a corrected packet is detected. (Lines 55-58 of Column 3).

r. Regarding the limitation of “responsive to said aggregate fail event packet including a recorded occurrence of said specified fail event, incrementing said counter,”



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Dawson discloses a system with counter of the number of lost messages. (Lines 17-23 of Column 4).

15. Regarding claim 19, Dawson discloses a system wherein a time interval passes and a count value of an error is calculated. (Lines 23-28 of Column 4).

16. Regarding claim 20:

s. Regarding the limitation of “comparing the rate of occurrence of said specified fail event with a predetermined threshold rate adding said specified fail event to a fail event disable list,” Dawson discloses a system the loss metrics of a fault can be analyzed and faults within the network can be isolated. (Lines 59-62 of Column 3).

17. Regarding the limitation of “responsive to the rate of occurrence of said specified fail event exceeding said predetermined threshold rate, adding said specified fail event to a fail event disable list,” Dawson discloses a system the loss metrics of a fault can be analyzed and faults within the network can be isolated. (Lines 59-62 of Column 3).

***Allowable Subject Matter***

18. Claims 5-8, 13-16, and 21-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

19. The following is a statement of reasons for the indication of allowable subject matter:

t. Regarding claim 5, 13, and 21 the prior art of record fail to teach singly or in combination with another prior art the limitations of “prior to testcase simulation of said

simulation model within said one or more simulation clients: retrieving said fail event disable list from said instrumentation server.”

u. Regarding claim 6-8, 14-16, and 22-24, the prior art of record fail to teach singly or in combination with another prior art the limitations of “computing a digital signature that uniquely identifies contents of said instrumentation eventlist as being associated with said simulation model; and responsive to receiving simulation data from said simulation client utilizing said digital signature to associate said simulation data with said simulation model.”

### ***Conclusion***

- Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tim Bonura**.
  - The examiner can normally be reached on **Mon-Fri: 8:30-5:00**.
  - The examiner can currently be reached at: **703-305-7762**. On or after October 15, 2004 the examiner can be reached at: **571-272-3654**.
- If attempts to reach the examiner by telephone are unsuccessful, please contact the examiner’s supervisor, **Rob Beausoliel**.
  - The supervisor can be reached on **703-305-9713**.
- The fax phone numbers for the organization where this application or proceeding is assigned are:
  - **703-872-9306 for all patent related correspondence by FAX.**
- Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


- Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **receptionist** whose telephone number is: **703-305-3900**.

- Responses should be mailed to:

- **Commissioner of Patents and Trademarks**

**P.O. Box 1450**

**Alexandria, VA 22313-1450**

  
**NADEEM IQBAL**  
**PRIMARY EXAMINER**

Tim Bonura  
Examiner  
Art Unit 2114

tmb  
September 21, 2004